IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 14TH MARCH 2007 / 23RD PHALGUNA 1928

WP(C).No. 8590 of 2007(V)

PETITIONERS:

1. **KOTTAYAM DISTRICT BUS OPERATOR'S ORGANISATION, MEENACHIL THALUK UNIT, PALA REPRESENTED BY ITS SECRETARY.**
2. **K.T.THOMAS, KAVUNGAL HOUSE, ELAMPALLY P.O., KOTTAYAM.**

BY ADV. SRI.K.V.GOPINATHAN NAIR

RESPONDENTS:

1. **THE SECRETARY, REGIONAL TRANSPORT AUTHORITY, KOTTAYAM.**
2. **THE TRANSPORT COMMISSIONER, TRANSPORT COMMISSIONERATE, KERALA, THIRUVANANTHAPURAM.**

BY SR.GOVT.PLEADER SMT. M.K. PUSHPALATHA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 8590 OF 2007-V

JUDGMENT

The first petitioner is Kottayam District Bus Operators' Organisation and the second petitioner is one of its members. The second petitioner submitted an application for substitute temporary permit on the route Irumboonikkara – Puthenpalam in respect of his stage carriage KL-03/C 8550. The application is to grant substitute temporary permit in the vacancy of the stage carriage KL-07/E 707. But, the 2nd petitioner has been served with Ext.P2 communication, stating that unless Speed Governor is fitted, his application will not be considered. In the said communication, reliance is placed on Ext.P3 communication of the 2nd respondent Transport Commissioner. The petitioners submit, the directions in Ext.P3 will amount to interfering with the quasi-judicial functions of the 1st respondent. In support of the submission, the petitioners rely on the decision of the Apex Court in **B.Rajagopala v. S.T.A.Tribunal** (AIR 1964 SC 1573). The offending direction in Ext.P3 reads as follows:

> "No Heavy Transport Vehicle/Stage Carriage will be rendered any service from the R.T. Office/Sub R.T. Office without fitment of Speed Governor."

2. The State and its officials are facing contempt proceedings for not implementing the direction concerning fitment of Speed Governors in all stage carriages and Heavy Transport vehicles. The officials of the Kerala Government were summoned to appear before the Apex Court and they were admonished for not implementing the directions issued by the Court. The Apex Court has also fixed an outer time frame for implementing its directions. So, the officials are taking steps to ensure that before the said time limit is over all the stage carriages and Heavy Transport vehicles in the State are fitted with Speed Governors. So, to implement the direction of the Apex Court, Ext.P3 communication has been issued. If this Court interferes with Ext.P3, the same will amount to preventing the officers of the State from obeying the directions of the Apex Court. Therefore, though technically the petitioners have a point, I think, this Court is not justified in interfering with the matter, having regard to the special facts of the case. In the result, the Writ Petition fails and it is dismissed.

14th March, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/